

**SUPREME COURT OF PENNSYLVANIA
CIVIL PROCEDURAL RULES COMMITTEE**

Proposed Recommendation No. 236

**Proposed Amendment of Rule 1012.1 Governing
Motions for Admission Pro Hac Vice**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1012.1 governing motions for admission pro hac vice be amended as set forth herein. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent no later than **November 26, 2008** to:

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**or E-Mail to
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The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

Rule 1012.1. Admission Pro Hac Vice. Motion. Content

(a) As used in this rule,

"candidate" means an attorney who is not admitted to the bar of the Commonwealth of Pennsylvania, but is admitted to the bar of and authorized to practice law in the highest court of another state or foreign jurisdiction and seeks admission *pro hac vice*;

Note: Pa.B.A.R. 301 states that the attorney seeking admission *pro hac vice* cannot act as the attorney of record.

"sponsor" means an attorney who is admitted to the bar of the Commonwealth of Pennsylvania and moves for the admission of a candidate *pro hac vice*.

(b)(1) The sponsor shall file a written motion for admission *pro hac vice* in the action for which admission is sought. The motion shall aver that (i) the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board, and (ii) the motion shall either aver that the fee required by Section 81.505(a) of the IOLTA regulations has been paid, or shall include as an attachment a copy of a fee payment certification from the IOLTA Board, or shall aver that the payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations.

(2) The verifications required by subdivisions (c) and (d)(2) shall be attached to the motion.

(c) A candidate shall submit a verified statement

(1) identifying the jurisdictions in which he or she is or has been licensed and the corresponding bar license numbers. With respect to each jurisdiction identified, the candidate shall state whether he or she

(i) is or has ever been suspended, disbarred, or otherwise disciplined. The candidate shall provide a description of the circumstances for each occurrence of suspension, disbarment or other disciplinary action,

(ii) is subject to any disciplinary proceedings. The candidate shall provide a description of the circumstances under which the disciplinary action has been brought,

(2) setting forth the number of pending actions in all courts of record in Pennsylvania in which the candidate has applied for admission *pro hac vice*, and the number of actions in which the motion has been denied. If any motion for admission *pro hac vice* has been denied, the candidate shall list the caption, court and docket number of the action, and describe the reasons for the denial of the motion.

(3) stating that he or she shall comply with and be bound by the applicable statutes, case law and procedural rules of the Commonwealth of Pennsylvania, including the Pennsylvania Rules of Professional Conduct,

(4) stating that he or she shall submit to the jurisdiction of the Pennsylvania courts and the Pennsylvania Disciplinary Board with respect to acts and omissions occurring during the appearance in the matter for which admission *pro hac vice* is being sought,

(5) stating that he or she has consented to the appointment of the sponsor as the agent upon whom service of process shall be made for all actions, including disciplinary actions, that may arise out of the practice of law in the matter for which admission *pro hac vice* is sought.

(d)(1) The sponsor shall enter an appearance as attorney of record in the action on behalf of the party whom the candidate seeks to represent. Upon the motion being granted, the sponsor shall remain the attorney of record for that party, and shall sign and serve, or be served with as the case may be, all notices, orders, pleadings or other papers filed in the action, and shall attend all proceedings before the court unless excused by the court. Attendance of the sponsor at a deposition in discovery shall not be required unless ordered by the court.

- (2) The sponsor shall submit a verified statement
- (i) stating that after reasonable investigation, he or she reasonably believes the candidate to be a reputable and competent attorney and is in a position to recommend the candidate's admission,
 - (ii) setting forth the number of cases in all courts of record in this Commonwealth in which he or she is acting as the sponsor of a candidate for admission *pro hac vice*, and
 - (iii) stating that the proceeds from the settlement of a cause of action in which the candidate is granted admission *pro hac vice* shall be received, held, distributed and accounted for in accordance with Rule 1.15 of the Pennsylvania Rules of Professional Conduct, including the IOLTA provisions thereof, if applicable.
- (e) The court shall grant the motion unless the court, in its discretion, finds good cause for denial.

Note: Good cause may include one or more of the following grounds:

- (1) the admission may be detrimental to the prompt, fair and efficient administration of justice,
- (2) the admission may be detrimental to legitimate interests of the parties to the proceedings other than the client whom the candidate proposes to represent,
- (3) the client who the candidate proposes to represent may be at risk of receiving inadequate representation and cannot adequately appreciate that risk,
- (4) the candidate is not competent or ethically fit to practice law,
- (5) the candidate is, in effect, practicing as a Pennsylvania attorney, in light of the nature and extent of the activities of the candidate in the Commonwealth, without complying with the Pennsylvania requirements for the admission to the bar. The court may weigh the number of other admissions to practice sought and/or

obtained by the candidate from Pennsylvania courts, the question of whether or not the candidate maintains an office in Pennsylvania although the candidate is not admitted to practice in Pennsylvania courts, and other relevant factors,

(6) the number of cases in all courts of record in this Commonwealth in which the Pennsylvania attorney is acting as the sponsor prohibits the adequate supervision of the candidate,

(7) failure to comply with this rule, or

(8) any other reason the court, in its discretion, deems appropriate.

(f) The court may revoke an admission *pro hac vice sua sponte* or upon the motion of a party, if it determines, after a hearing or other meaningful opportunity to respond, the continued admission *pro hac vice* is inappropriate or inadvisable.

Explanatory Comment

In 2007, the Supreme Court promulgated Rule 1012.1 governing motions for admission *pro hac vice*. In conjunction with this, the Supreme Court also amended Pa.B.A.R. 301 and promulgated new IOLTA regulations, both of which also govern admission *pro hac vice*. Pa.B.A.R. 301 requires that the motion for admission *pro hac vice* to aver that the fee required by the IOLTA regulations has been paid, or include as an attachment a copy of a fee payment certification from the IOLTA Board, unless payment of the fee is not required pursuant to Section 81.505(c) of the IOLTA regulations, and the information required by Section 81.504 of the IOLTA regulations has been provided to the IOLTA Board. The requirements of Pa.B.A.R. 301 and the IOLTA regulations have been incorporated into Rule 1012.1 to aid the practitioner in satisfying the requirements for admission *pro hac vice* in civil cases.

By the Civil Procedural
Rules Committee

Stewart L. Kurtz
Chair